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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,701	03/17/2004	Hideo Ando	249791US2S DIV	1866

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EXAMINER

NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,701

Applicant(s)

ANDO ET AL

Examiner

HUY T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/643,985.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/17/04, 8/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 14 directs to information stored on a medium. Since the information does not provides any functional interrelationship to control the medium to access the information from the medium, or impart to any software and hardware structural components to perform a certain function that is processed by a computer, the information on the medium do not make them statutory. See MPEP 2100.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/801,699 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,699 is that claims 14-18 of copending application No. 10/801,699 do not teach that the time map includes size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11, column 11 lines 5-25). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-18 of copending application No. 10/801,699 with Seiki by providing the time map information of claims 14-18 of copending application No. 10/801,699 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

5. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/801,700 in view of Seiki et al (6,0798,727).

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The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,700 is that claims 14-18 U.S. Patent No. 10/801,700 do not teach that the time map includes size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-18 of copending application No. 10/801,700 by providing the time map information of claims 14-18 of copending application No. 10/801,700 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

6. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/801,835 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,835 is that claims 14-18 of copending application No. 10/801,835 do not teach that the time map including size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-18 of copending application No.

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10/801,835 with Saeki by providing the time map information of claims 14-18 of copending application No. 10/801,835 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

7. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of U.S. Patent No. 10/801,862 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-17 of U.S. Patent No. 10/801,862 is that claims 14-17 U.S. Patent No. 10/801,862 do not teach that the time map includes size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11, column 11). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-17 of U.S. Patent No. 10/801,862 by providing the time map information of claims 14-17 of U.S. Patent No. 10/801,862 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

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8. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/801,863 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,863 is that claims 14-18 of copending application No. 10/801,863 do not teach that the time map includes size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-18 of copending application No. 10/801,863 with Seiki by providing the time map information of claims 14-18 of copending application No. 10/801,863 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

9. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/801,865 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,865 is that claims 14-18 of copending application No. 10/801,865 do not teach that the time map includes size information

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of a data unit that is being recited in claims 14-17 of the present application . However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11, column 11) . Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-18 of copending application No. 10/801,865 by providing the time map information of claims 14-18 of copending application No. 10/801,865 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

10. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-17 of copending application No. 10/801,866 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,866 is that claims 14-18 of copending application No. 10/801,866 do not teach that the time map includes size information of a data unit that is being recited in claims 14-17 of the present application . However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11) . Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-17 of copending application No. 10/801,866 by providing the time map information of claims 14-17 of copending

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application No. 10/801,866 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application. This is a provisional obviousness-type double patenting rejection.

11. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/801,678 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/801,678 is that claims 14-18 of copending application No. 10/801,678 do not teach that the time map including size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11, column 11). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-18 of copending application No. 10/801,678 by providing the time map information of claims 14-18 of copending application No. 10/801,678 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application.

This is a provisional obviousness-type double patenting rejection.

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12. Claims 14-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14-18 of copending application No. 10/802,004 in view of Seiki et al (6,0798,727).

The difference between claims 14-17 of the present application and claims 14-18 of copending application No. 10/802,004 is that claims 14-17 of copending application No. 10/802,004 do not teach that the time map includes size information of a data unit that is being recited in claims 14-17 of the present application. However, it is noted that providing size information of a data unit in time map information is known in the art as taught by Seiki (Fig. 11, column 11). Therefore, it would have been obvious to one of ordinary skill in the art to modify claims 14-17 of U.S. Patent No. 10/802,004 by providing the time map information of claims 14-17 of copending application No. 10/802,004 with the size information of a data unit in order to accurately access the data unit and to produce claims 14-17 of the present application. This is a provisional obviousness-type double patenting rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY NGUYEN
PRIMARY EXAMINER